

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION**

CLERK US DISTRICT COURT
NORTHERN DIST. OF TX
FILED

2011 JUL 18 PM 4:42

DEPUTY CLERK ph

BOBBY W. MANESS, an Individual,

Plaintiff,

vs.

**XCEL ENERGY SERVICES INC.,
DBA XES, a Delaware Corporation,
SOUTHWESTERN PUBLIC SERVICE,
a New Mexico Corporation,
WACKENHUT SERVICES, INC., a
Florida Corporation, and
WACKENHUT SERVICES LIMITED
LIABILITY COMPANY, d/b/a
W. SERVICES, LLC, a Colorado LLC**

Defendants.

**CIVIL ACTION NUMBER
2:10-CV-200-J**

JURY DEMANDED

ORDER GRANTING MOTION TO STRIKE

Before the Court is Defendant Xcel Energy Services and Southwestern Public Services' motion, filed May 16, 2011, to strike the consent form filed by Danny Moats, Plaintiff Danny Maness' opposition thereto, and Defendants' reply.

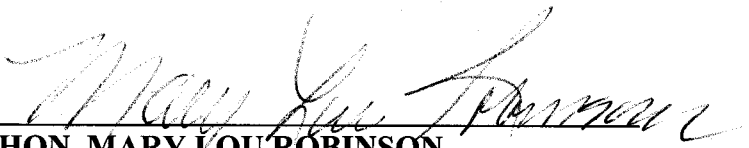
Danny Moats is not listed as a named plaintiff in the second amended complaint. Certification of an opt-in class has been denied. Moats' contract employer, Precision Resource Company, is not a party to this lawsuit. Plaintiff Maness' contract employer, G4S Secure Solutions f/n/a Wackenhut Corporation, is a named party defendant. The elements of damages claimed by Moats differ from those asserted by Maness, as do the relevant facts of their employment. The Court notes that limitations was tolled on Moats' claims upon filing of the opt-in notice, and that this case is set for trial to begin on the Court's August 15, 2011, trailing docket.

The relief requested by Plaintiff Maness is, in effect, leave to add Danny Moats as a named plaintiff via what is, in effect, a motion for leave to file a third amended complaint. That relief is denied.

Defendants' motion to strike is granted. However, entry of a final judgment of dismissal without prejudice will be withheld for ten days, until **July 29, 2011**, to allow time for Plaintiff's counsel to file, if they intend to do so, another lawsuit on Danny Moats' behalf. Counsel is to immediately inform the Court if that lawsuit is filed before July 29, 2011, so that an appropriate order can be promptly entered.

It is SO ORDERED.

Signed this the 17th day of July, 2011.


HON. MARY LOU ROBINSON
UNITED STATES DISTRICT JUDGE